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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,159	07/20/2001	Mara Q. Devitt	05222.00131	2587

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EXAMINER	
FISCHETTI, JOSEPH A	
ART UNIT	**PAPER NUMBER**
3627	

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/910,159	DEVITT ET AL.	
	Examiner	Art Unit	
	Joseph A. Fischetti	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-11 and 36* is/are pending in the application.

4a) Of the above claim(s) *12-36* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5-11 and 36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The reference to "(b)" is unclear.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5, 6, 9, 10, and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Rose in view of Quartararo Jr.

Rose discloses a method of identifying clothing combinations, the method comprises: (a) identifying a first article of clothing and a search request (col. 8 lines 48-51 discloses the user selecting START AGAIN which is read as a search request and then selecting an article of clothing from one of a plurality of such articles; (b) identifying a set of rules for selecting clothing combinations (col. 8 lines 52 et seq. selection of the fashion reflection submenu is read as identifying since it must be identified before it is selected) ; (c) transmitting the identification of the first article of clothing, the search request and the identification of the set of rules to a rules engine (Fig. 5 illustrates the result of such a transmission which occurs once the user inputs); and (d) receiving an identification of

a second article of clothing that satisfies the set of rules (see cols 9 and 10 under Do's to wear).

However, Rose fails to disclose in step (a) using a tag embedded in the material of an article of clothing to identify and generate a search request. However, Quartararo et al. do disclose sewing the tag within the garment col. 3 line 56, i.e. embedding to identify it. It would be obvious to modify the identification step in Rose to include the RF ID tag of Quatararo et al. to identify the article of clothing the motivation being to give the user the advantage of picking an actual clothing article and automatically causing the computer to initiate the identify and search initiate step.

Re claim 2: wherein the set of rules includes rules for permissible color combinations see col. 9 line 63, col. 10 lines 36, 23-26.

Re claim 3: wherein the set of rules include rules for permissible pattern combinations see col. 9 line 30, col. 10 lines 5,14.

Re claim 10: Quartararo discloses using the tag to identify among other things, the owner of the clothing article, it is obvious to modify the Rose to use a user ID this would allow mixing of articles of different owners in a single closet.

Re claim 5: selecting the first article of clothing from a selection of clothing in a brick and mortar store (col. 1 lies 10-50 discuss resolving problem of trying on in department stores).

Re claims 6, 9: selecting the first article of clothing from a selection of clothing offered for sale by a web site (col. 1 lies 10-50 discuss resolving problem of trying on in internet stores).

RE claim 11: receiving the identification of a third article of clothing that satisfies the search request is read as the third of the plural suggestions set forth under the categories DO WEAR in cols 9 and 10.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3,5-11, 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. in view of Quartararo et al.

Suzuki et al. disclose: a) identifying a first article of clothing and a search request (clothing article is taken into fitting room and the RF tag attached to the clothing identifies the article and search engine 40 starts request); (b) identifying a set of rules for selecting clothing combinations (col. 6 lines 50 et seq. engine 40); (c) transmitting the identification of the first article of clothing, the search request and the identification of the set of rules to a rules engine (RF tag transmits the item taken into fitting room and identifies rules based upon PLU table); and (d) receiving an identification of a second article of clothing that satisfies the set of rules (see col. 7 recommendation list 54 includes products with a similar style). However, Suzuki et al. fail to disclose embedding an ID tag in the material of the clothing article. However, Quartararo et al. do disclose sewing the tag within the garment col. 3 line 56, i.e. embedding. It would be obvious to modify the Suzuki et al. to embed the RF tag of Suzuki et al. into the article of clothing

with which it is associated the motivation being the ability to repeatedly identify the article of clothing even without any discernable tag.

Re claim 2: wherein the set of rules includes rules for permissible color combinations (module 42 analyzes color)

Re claim 3: wherein the set of rules include rules for permissible pattern combinations (similarity module 42 matches same style e.g. patterns).

Re claim 5: selecting the first article of clothing from a selection of clothing in a brick and mortar store (Suzuki discloses a retail store)

Re claims: 6, 9: selecting the first article of clothing from a selection of clothing offered for sale by a web site and the first article of clothing is not owned by the user but rather by the store.

Re claim 7: the first and second articles of clothing are owned by the same person (Quartararo teaches owning all clothing by one person to identify that person). The motivation is the same for this as it is set forth above.

Re claim 8: Official notice is taken regarding the old and well known practice of trying to match one's clothes with an article of clothing that one is attempting to purchase. It being understood that the second article of clothing being owned by the store is not part of the user's current wardrobe.

Re claim 10: Quartararo discloses using the tag to identify among other things, the owner of the clothing article, it is obvious to modify the Rose to use a user ID this would allow mixing of articles of different owners in a single closet.

Re claim 11: receiving the identification of a third article of clothing that satisfies the search request Suzuki in cols. 9 and 10 discloses successive clothing articles being fitted including at least three fittings.

Re claim 36: the trial history 70 in Suzuki is read as an editing the set of rules as the trial history is updated by different clothing and hence the rules are changed by new habits.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

Joseph A. Fischetti
Primary Examiner
Art Unit 3627

JOSEPH A. FISCHETTI
PRIMARY EXAMINER